

These issues receive clear, practical and useful consideration; principles are set out in a way which allows their extension into less frequently encountered, but difficult ethical dilemmas. The report has the merit of the backing of the BMA and the RCN.

The shortcomings of the book are also a result of its brevity and clarity: it is often dogmatic, setting out principles with little attempt to justify them philosophically or by reference to discussions elsewhere. There are a few (twenty-seven) footnotes, which are well chosen, but left me wanting more, and a useful list of further reading, consisting mainly of earlier BMA, RCN and Law Commission reports, which again left me wanting more direction into the wider medico-legal and ethical literature.

The report was the outcome of a committee's deliberations. This gives it the advantage of balanced and well-informed views, but at times a rather dry and abstract tone. The author, Henrietta Wallace, has included short case-studies in order to relate the abstract points to clinical situations, and where they are used they are effective, highlighting the way in which ethical issues and good practice are related.

*Assessment of Mental Capacity* is also a report by a group of informed professionals, in this case lawyers and doctors. Its scope is limited in that, as the title suggests, it concentrates on the assessment of mental capacity. It is not restricted to older people, but only briefly considers the law relating to the capacity of children. It deals only with legal provisions in England and Wales, and mainly with civil law, not criminal law. The Mental Health Act 1983 is not considered, except in passing. These restrictions in scope help to shape the book clearly, and to make it very easy to turn to relevant sections. After useful discussions about confidentiality, the law of evidence and a very practical and imaginative section on how doctors and solicitors can learn to communicate more clearly with each other, the main part of the book tackles legal tests of capacity under nine headings: financial affairs, making a will, making a gift, litigating, entering into a contract, voting, entering into personal relationships, consenting to/refusing medical treatment, and consenting to research and innovative treatment. Each section is very clearly written. Clear definitions and explanations of normal procedures are given, with excellent analyses of the meanings of

key expressions such as "understanding the nature of the act and its effect" and "best interest". Important distinctions are made, for example, the fact that a person is a patient of the court of protection (a court empowered to look after the patient's financial affairs) does not of itself mean that the person lacks testamentary capacity. This is an instance of a principle underlying the book, that mental capacity is not a black-and-white affair, but depends strongly on what decision the patient is being asked to make. The authors make clear what is statute, what is case law and what is in their opinion good practice. There is a wealth of practical guidance: how many readers, for example, would otherwise know how to contact the duty judge out of hours?

This is a clear and immensely valuable book. Its shortcomings are self-imposed by its restricted coverage, or unavoidable because of the uncertainties about how far the recommendations for new legislation published by the Law Commission in March 1995 will be accepted. Its merits are that it is clear and easy to use, and offers in one economical volume a level of understanding of the current law relating to capacity which is hard to find in such accessible form anywhere else.

HUGH SERIES

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## Health Information Ethics

P A Cuniffe, Wellington, New Zealand, Health Information Association of New Zealand, 1995, 93 pages, \$27.

The study on which this book is based aimed "to seek to define ethical concerns as they relate to health, to information, to professionalism, and to health information in particular. The purpose is to develop a code of ethics which will address these concerns". There follow chapters on ethics; health, medicine and medical ethics; knowledge, information and knowledge and information ethics; professions and professional ethics; information professionalism; health knowledge and health information, and health information ethics. All this within 86 pages, A4 size and with a potentially useful seven pages of refer-

ences at the end. With such a wide field to be covered, each part of which contains several different and challenging issues, brevity and superficiality in most of them is inevitable.

The book sets out to consider whether qualified health information workers should now be recognised as professionals with their own code of ethics. It is suggested that they now have an organised body of knowledge, a recognisable and high level of skill and expertise and have at least some accountability to individual clients and to society for the proper execution of their duties. On this last point, reference is made to the possible growth of malpractice claims against health information providers because of a breach in their duty of care to their clients.

It is not entirely clear, however, just who the health information professional is. On page 44, the author gives as one basis on which professional status for "library and information work" can be sought, the need to "regain the scholar-librarian". Later he considers the educative role of health information and the ethical issues in health education and towards the end he quotes in full a draft USA Code of Ethics for Health Sciences Librarianship.

In many ways, it might have been more useful to have concentrated on librarianship, especially within medicine and the related sciences and to have considered much more the immediate future impact of newer information technology such as the very wide access to CD-ROM and the World Wide Web, questioning the need for libraries and librarians as we now have them. The effect of this rapidly growing universality of information on all professionals and indeed on society must be a subject of great current concern to any health information association.

The book has several references from New Zealand and may expect a little more knowledge in the reader about what is happening there than in fact exists. The author could have made clearer the rationale behind the selection of the many quotations which are used, as there are some surprising gaps; for example, in considering the "professions and professional ethics" and while generally recognising throughout the position of medicine as an important model of a profession, there is no reference to Starr, nor to the work of Friedson. In a book which reads rather like a mastership thesis, suitably amended for

publication, such omissions are probably intentional.

The book is likely to interest mainly those working or aiming for a career in the various parts of the health information arena. It could also be read with interest by health professionals and non-ethics experts such as the reviewer, as it provides a very readable collection of quotations, a good many of which should cause some argument and debate. The review copy had a number of very small illegible patches which did not however cause any serious problem.

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## **Parliament and Screening: Ethical and Social Problems Arising from Testing and Screening for HIV and Genetic Disease**

Edited by Wayland Kennet, London, John Libbey and Co Ltd, 1995, 351 pages, Fr168

This is a very useful book, reporting a conference in London, primarily sponsored by the EC, on social and ethical consequences of testing and screening for HIV and genetic disorders, and the roles of parliament and the news media in this. It is recommended for any study in these areas.

An overall impression arising from this book is of the bewilderment of medical, legal and social establishments when facing new crises, and of their need to learn from the past. Although lessons have been learned from prior illnesses, they are not always easily accessible when required in the midst of a crisis. This book will be very useful in reminding the administrators of future epidemics in a coherent and contained form of the lessons that have been drawn thus far from HIV.

A further lesson from this book is how quickly important lessons in the administration of the HIV pandemic in Europe were learned. As the book reveals, positions established in association with the widespread availability of HIV-antibody testing in the

mid-1980s have not been challenged to date and appear, with hindsight, to have been both prudent and highly appropriate.

For example, the opening chapter on the ethics of testing and screening for HIV constitutes a re-write of the well-established literature on the mandatory screening debate of the 1980s. It quickly focuses on the central importance of "reciprocity" in the development of public health responses. Individual civil rights are essential to HIV prevention strategies, and encourage and perhaps reinforce the engagement of the individual within the context of public health imperatives.

There is a concern that a book of ethical discussion must necessarily skate over the considerable dilemmas that challenge and – in the case of HIV – change routine procedures.

For non-lawyers, the revelation that there is no discrete body of principles in common law exclusively relevant to health law comes as something of surprise and is perhaps something that we should be worried about. For example, consent does not rely, in English law, on discussing the implications of a treatment or procedure, although there appears to be a duty of counselling in such instances. A further question is whether the implications of HIV testing, which have long been held as a justification for alterations in "routine" testing procedures, are really as bad as may have been supposed. The shock recognition for this reviewer is that there has been remarkably little empirical quantification, aside from the qualitative anecdotes of the mid to late 1980s, to support the contention that the differences in implications do merit procedures different from the "norm". There is very little evidence to illustrate just how woolly and complacent legal and professional organisational thinking has been on issues of informed consent and its potential abuses.

The opportunities for the tail of HIV care to wag the dog of establishment thinking and conventional practice in medicine is not as clearly brought out in this book as it might have been, for example in relation to the development and administration of clinical trials. However, a real value in this book lies in the comparison of parliamentary models of response to HIV across the EC states. It is extremely useful, for example, to consider how the burden of proof and informed consent in England rests

upon the opinions of health professionals, and not on the opinions of "reasonable, prudent" patients, as in Canada, for example. Developments elsewhere in medicine in this country have revealed how important it can be to consider directly the views of patients in determining the true value of clinical endeavours.

Overall, this book makes for necessary reading, and Lord Kennet and his colleagues are to be commended for laying down footprints in very difficult terrain. It is to be hoped that we can start to learn from the mistakes of the past and economise on the need for the exercise of health legislation in the future.

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## **Zur Verantwortung des Arztes**

Urban Wiesing, Stuttgart-Bad Cannstatt, Frommann-Holzboog, 1995, 190 pages, 58.00 Deutschmarks

"What responsibilities can reasonably be ascribed to physicians?" In his recently published book *Zur Verantwortung des Arztes (On the Responsibility of the Physician)*, Urban Wiesing, a physician and philosopher, attempts to give an answer to this fundamental question. He focuses on diagnostic-therapeutic processes, since they have a normative character and are thus well suited to his investigation, which starts by examining the role of the physician and the epistemological status of modern medicine. The method employed is a so called "reconstructive approach", which starts from the present conception of the role of the physician, and then questions the extent to which this conception is plausible, consistent and applicable. The physician has the responsibility to act in specific situations in a specific manner. In doing this the physician has only limited information and is under pressure to make decisions. Furthermore the physician cannot guarantee the success of his or her actions, and does not even know whether the outcome is the result of his or her intervention or not.